



8011-01p

SECURITIES AND EXCHANGE COMMISSION

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulation D Rule 506(e) Felons and Other Bad Actors Disclosure Statement ACTION: Notice.

SUMMARY: The Securities and Exchange Commission (“Commission”) has submitted the sponsored information collection request (ICR) titled, “Regulation D Rule 506(e) Felons and Other Bad Actors Disclosure Statement,” to the Office of Management and Budget (OMB) for review and clearance under the emergency processing procedures in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB approval has been requested by September 23, 2013. In addition, this notice also solicits comment on the three-year extension of the same information collection under 5 CFR 1320.12.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at

<http://www.reginfo.gov/public/do/PRAMain>

ICR Reference Number 201308-3235-013.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: Shagufta_Ahmed@omb.eop.gov; and (ii) Thomas Bayer,

Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, N.E., Washington, DC 20549 or send an e-mail to:

PRA_Mailbox@sec.gov.

SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission (“Commission”) is requesting that OMB authorize emergency processing of the submission of collection of information for “Regulation D Rule 506(e) Felons and Other Bad Actors Disclosure Statement.” This request should also serve to notify the public that the Commission is seeking PRA approval from OMB on an emergency basis for the collection of information associated with the final rule amendments to Rule 506 of Regulation D adopted by the Commission on July 10, 2013 to implement Section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. (See citation 78 FR 44730). In addition, the Commission is also providing notice of the three-year extension under 5 CFR 1320.12.

As adopted, Rule 506(e) of Regulation D (17 CFR 230.506(e)) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) requires the issuer to furnish to each purchaser, a reasonable time prior to sale, a description of any matters that would have triggered disqualification under Rule 506(d)(1) of Regulation D, except that these events occurred before the effective date of the rule amendments or before September 23, 2013. The written disclosure statement required under Rule 506(e) is not filed with the Commission, but serves as an important investor protection tool to put investors on notice of an issuer’s and any of its covered persons’ involvement in past “bad actor” disqualifying events such as pre-existing criminal convictions, court injunctions, disciplinary proceedings, and other sanctions enumerated in Rule 506(d). Under Rule

506(d) of Regulation D, issuers are disqualified due to triggering events that occur after the effective date of September 23, 2013. Without the mandatory written statement requirement set forth in Rule 506(e), purchasers may have the impression that Rule 506 offerings occurring after the effective date of the rule amendments do not involve any “bad actors” or disqualifying events. The Rule 506(e) written disclosure statement requirement was not proposed by the Commission in 2011 because the Commission proposed to apply disqualification to pre-existing triggering events that occurred before the effective date of the rule amendments. At the proposing stage of the rule amendments, the Commission was therefore not required to submit a collection of information to OMB. (See citation [76 FR 31518](#)).

The Commission adopted the Rule 506(e) written disclosure statement after providing notice that it was considering this alternative to applying the disqualification to events that took place before the effective date of the rule based on commenters’ responses to the 2011 rule proposals. Under the proposal, issuers would have been disqualified from reliance on Rule 506 for all relevant triggering events, whether they occurred before or after effectiveness of the rule amendments. In light of many commenters’ favorable reaction to this alternative, the Commission decided to include a disclosure requirement in the final rule amendments, although it had not prepared an information collection submission at the time of the proposal.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition,

notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6. The SEC obtains OMB approval for this information collection under OMB ICR Reference Number 201308-3235-013.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 15 days of publication of this notice in the Federal Register. In order to help ensure appropriate consideration, comments should reference OMB ICR Reference Number 201308-3235-013. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title of Collection: Regulation D Rule 506(e) Felons and Other Bad Actors Disclosure
Statement

OMB ICR Reference Number: 201308-3235-013

Type of Review: Emergency.

Requested Duration of Authorization: 6 Months

Affected Public: Private Sector

Frequency of Collection: Yearly

Total Estimated Number of Responses: 19,908

Estimated Time per Response: 1 Hour

Total Estimated Annual Burden Hours: 22,108

Total Estimated Annual Other Costs Burden: \$264,000

Elizabeth M. Murphy
Secretary

August 30, 2013

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